

Environmental Protection Agency

§ 271.21

paragraph (a)(1) of this section. The notification shall include a concise statement of the reasons for this determination, and a response to significant comments received.

[48 FR 14248, Apr. 1, 1983; 48 FR 30115, June 30, 1983, as amended at 60 FR 33914, June 29, 1994]

§ 271.21 Procedures for revision of State programs.

(a) Either EPA or the approved State may initiate program revision. Program revision may be necessary when the controlling Federal or State statutory or regulatory authority is modified or supplemented. The State shall keep EPA fully informed of any proposed modifications to its basic statutory or regulatory authority, its forms, procedures, or priorities.

(b) Revision of a State program shall be accomplished as follows:

(1) The State shall submit a modified program description, Attorney General's statement, Memorandum of Agreement, or such other documents as EPA determines to be necessary under the circumstances.

(2) The Administrator shall approve or disapprove program revisions based on the requirements of this part and of the Act. In approving or disapproving program revisions, the Administrator shall follow the procedures of paragraph (b)(3) or (4) of this section.

(3) The procedures for an immediate final publication of the Administrator's decision are as follows:

(i) The Administrator shall issue public notice of his approval or disapproval of a State program revision:

(A) In the FEDERAL REGISTER;

(B) In enough of the largest newspapers in the State to attract State-wide attention; and

(C) By mailing to persons on the State agency mailing list and to any other persons whom the agency has reason to believe are interested.

(ii) The public notice shall summarize the State program revision, indicate whether EPA intends to approve or disapprove the revision and provide for an opportunity to comment for a period of 30 days.

(iii) Approval or disapproval of a State program revision shall become effective 60 days after the date of publication in the FEDERAL REGISTER in ac-

cordance with paragraph (b)(3)(i) of this section, unless an adverse comment pertaining to the State revision discussed in the notice is received by the end of the comment period. If an adverse comment is received the Administrator shall so notify the State and shall, within 60 days after the date of publication, publish in the FEDERAL REGISTER either:

(A) A withdrawal of the immediate final decision; or

(B) A notice containing a response to comments and which either affirms that the immediate final decision takes effect or reverses the decision.

(4) The procedures for proposed and final publication of the Administrator's decision are as follows:

(i) The Administrator shall issue public notice of his proposed approval or disapproval of a State program revision:

(A) In the FEDERAL REGISTER;

(B) In enough of the largest newspapers in the State to attract State-wide attention; and

(C) By mailing to persons on the State agency mailing list and to any other persons whom the agency has reason to believe are interested.

(ii) The public notice shall summarize the State program revision, indicate whether EPA intends to approve or disapprove the revision and provide for an opportunity to comment for a period of at least 30 days.

(iii) A State program revision shall become effective when the Administrator's final approval is published in the FEDERAL REGISTER.

(c) States with approved programs shall notify EPA whenever they propose to transfer all or part of any program from the approved State agency to any other State agency, and shall identify any new division of responsibilities among the agencies involved. The new agency is not authorized to administer the program until approved by the Administrator under paragraph (b) of this section. Organizational charts required under § 271.6(b) shall be revised and resubmitted.

(d) Whenever the Administrator has reason to believe that circumstances have changed with respect to a State program, he may request, and the

State shall provide, a supplemental Attorney General's statement, program description, or such other documents or information as are necessary.

(e)(1) As the Federal program changes, authorized State programs must be revised to remain in compliance with this subpart.

(2) Federal program changes are defined for purposes of this section as promulgated amendments to 40 CFR parts 124, 270, 260-266, or 268 and any self-implementing statutory provisions (i.e., those taking effect without prior implementing regulations) which are listed as State program requirements in this subpart. States must modify their programs to reflect Federal program changes and must subsequently submit the modifications to EPA for approval.

(i) For Federal program changes occurring before July 1, 1984, the State program must be modified within one year of the date of the Federal program change.

(ii) Except as provided in paragraphs (e) (iii) and (iv) of this section, for Federal program changes occurring on or after July 1, 1984, the State program must be modified by July 1 of each year to reflect all changes to the Federal program occurring during the 12 months preceding the previous July 1. (For example, States must modify their programs by July 1, 1986 to reflect all changes from July 1, 1984 to June 30, 1985.)

(iii) For Federal program changes identified in § 271.1(j) that occur between November 8, 1984 and June 30, 1987 (inclusive), the State program must be modified by July 1, 1989.

(iv) For Federal program changes identified in § 271.1(j) that occur between July 1, 1987 and June 30, 1990 (inclusive), the State program must be modified by July 1, 1991.

(v) States may have an additional year to modify their programs for those changes to the Federal program identified in paragraphs (e) (i), (ii), (iii), and (iv) of this section which necessitate a State statutory amendment.

(3) The deadlines in paragraphs (e)(2)(i) through (v) may be extended by the Regional Administrator upon an adequate demonstration by a State

that it has made a good faith effort to meet these deadlines and that its legislative or rulemaking procedures render the State unable to do so. No such extension shall exceed six months.

(4)(i) Within 30 days of the completion of the State program modification the State must submit to EPA a copy of the program change and a schedule indicating when the State intends to seek approval of the change. Such schedule shall not exceed the dates provided for in paragraph (e)(4)(ii).

(ii) Within 60 days of the appropriate deadline in paragraphs (e), (f), and (g) of this section, the State must submit to EPA the documentation described in paragraph (b) of this section to revise its program.

(f) A State must modify its program to comply with any Federal program changes which occur prior to the day that final authorization is received, except for those changes that the State has already received authorization for pursuant to § 271.3(f). Such State program modifications must be completed and submitted by the deadlines specified in paragraph (e) of this section or by the date of final authorization, whichever is later.

(g)(1) States that are unable to modify their programs by the deadlines in paragraph (e) may be placed on a schedule of compliance to adopt the program revision(s) provided that:

(i) The State has received an extension of the program modification deadline under paragraph (e)(3) and has made efforts to revise its program during that period of time,

(ii) The State has made progress in adopting the program modifications,

(iii) The State submits a proposed timetable for the requisite regulatory and/or statutory revisions by the deadline granted under paragraph (e)(3),

(iv) The schedule of compliance for program revisions does not exceed one year from the extended program modification deadline under paragraph (e)(3), and

(v) The schedule of compliance is published in the FEDERAL REGISTER.

(2) If a State fails to comply with the schedule of compliance, the Administrator may initiate program withdrawal procedures pursuant to §§ 271.22 and 271.23.

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(h) *Abbreviated authorization revisions.* This abbreviated procedure applies to State Program revisions for the Federal rulemakings listed in Table 1 of this section. The abbreviated procedures are as follows:

(1) An application for a revision of a State's program for the rulemakings listed in Table 1 of this section shall consist of:

(i) A statement from the State that its laws and regulations provide authority that is equivalent to, and no less stringent than, the designated minor rules or parts of rules specified in Table 1 of this section, and which includes references to the specific statutes, administrative regulations and where appropriate, judicial decisions. State statutes and regulations cited in the statement shall be lawfully adopted at the time the statement is signed and fully effective by the time the program revisions are approved; and

(ii) Copies of all applicable State statutes and regulations.

(2) Within 30 days of receipt by EPA of a State's application for final authorization to implement a rule specified in Table 1 of this section, if the Administrator determines that the application is not complete or contains errors, the Administrator shall notify the State. This notice will include a concise statement of the deficiencies which form the basis for this determination. The State will address all deficiencies and resubmit the application to EPA for review.

(3) For purposes of this section an application is considered incomplete when:

(i) Copies of applicable statutes or regulations were not included;

(ii) The statutes or regulations relied on by the State to implement the program revisions are not lawfully adopted at the time the statement is signed or fully effective by the time the program revisions are approved;

(iii) In the statement, the citations to the specific statutes, administrative regulations and where appropriate, judicial decisions are not included or incomplete; or

(iv) The State is not authorized to implement the prerequisite RCRA rules as specified in paragraph (h)(5) of this section.

(4) Within 60 days after receipt of a complete final application from a State for final authorization to implement a rule or rules specified in Table 1 of this section, the Administrator shall publish a notice of the decision to grant final authorization in accordance with the procedures for immediate final publication in paragraph (b)(3) of this section.

(5) To be eligible to use the procedure in this paragraph (h), a State must be authorized for the provisions which the rule listed in Table 1 to this section amends.

TABLE 1 TO § 271.21

Title of regulation	Promulgation date	Federal Register reference
Land Disposal Restrictions Phase II—the Universal Treatment Standards in §§ 268.40 and 268.48 of this chapter only.	Sept. 19, 1994	59 FR 47982

[48 FR 14248, Apr. 1, 1983, as amended at 51 FR 7542, Mar. 4, 1986; 51 FR 33722, Sept. 22, 1986; 63 FR 65947, Nov. 30, 1998]

§ 271.22 Criteria for withdrawing approval of State programs.

(a) The Administrator may withdraw program approval when a State program no longer complies with the requirements of this subpart, and the State fails to take corrective action. Such circumstances include the following:

(1) When the State's legal authority no longer meets the requirements of this part, including:

(i) Failure of the State to promulgate or enact new authorities when necessary; or

(ii) Action by a State legislature or court striking down or limiting State authorities.

(2) When the operation of the State program fails to comply with the requirements of this part, including:

(i) Failure to exercise control over activities required to be regulated under this part, including failure to issue permits;

(ii) Repeated issuance of permits which do not conform to the requirements of this part; or